

Declaration and Power of Attorney for Patent Application

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

New Crystalline modifications of 2-(3,5-bis-trifluoromethyl-phenyl)-N-[6-(1,1-dioxo-1λ⁶-thiomorpholin-4-yl)-4-(4-fluoro-2-methyl-phenyl)-pyridin-3-yl]-N-methyl-isobutyramide

the specification of which

(check one)

is attached hereto

was filed on _____ as

Application Serial No. _____

and was amended on _____

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

| Prior Foreign Application(s) | | | Priority Claimed | |
|------------------------------|---------------------|---|---|-----------------------------|
| 03002134.9 (Number) | Europe (Country) | 31 / January / 2003 (Day/Month/Year Filed) | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| | | |
|--------------------------|---------------|--------------------------------|
| (Application Serial No.) | (Filing Date) | (Status) |
| | | (patented, pending, abandoned) |

| | | |
|--------------------------|---------------|--------------------------------|
| (Application Serial No.) | (Filing Date) | (Status) |
| | | (patented, pending, abandoned) |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

X Practitioners at Customer Number **00151**

Direct all correspondence to:

X Customer Number **00151**

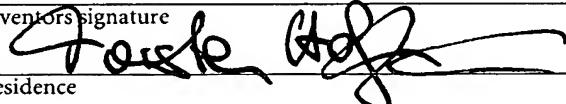
Direct telephone calls to: (name and telephone number)

Kimberly J. Prior (973) 235-6208

Full name of sole or first inventor

Torsten Hoffmann

Inventors signature



Date

January 22, 2004

Residence

D-79576 Weil am Rhein, Germany

Citizenship

German

Post Office Address

Kleinhueninger Strasse 15, D-79576 Weil am Rhein, Germany

Full name of sole or second inventor

Fabienne Hoffmann-Emery

Inventors signature



Date

January 22, 2004

D-79576 Weil am Rhein, Germany

Citizenship

Swiss

Post Office Address

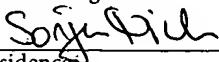
Kleinhueninger Strasse 15, D-79576 Weil am Rhein, Germany

(Supply similar information and signature for third and subsequent joint inventors.)

Full name of sole or third inventor, if any

Sonja Nick

Inventors signature



Date

January 22, 2004

Residence

CH-4058 Basel, Switzerland

Citizenship

Swiss

Post Office Address

Fischerweg 10, CH-4058 Basel, Switzerland

Full name of sole or fourth inventor, if any

Urs Schwitter

Inventors signature



Date

January 22, 2004

Residence

CH-4153 Reinach, Switzerland

Citizenship

Swiss

Post Office Address

Oerinstrasse 15, CH-4153 Reinach, Switzerland

Full name of sole or fifth inventor, if any

Pius Waldmeier

Inventors signature



Date

January 22, 2004

Residence

CH-4317 Wegenstetten, Switzerland

Citizenship

Swiss

Post Office Address

Bachstrasse 10, CH-4317 Wegenstetten, Switzerland

Title 37, Code of Federal Regulations, §1.56, duty to disclose information material to patentability (in part) provides, in part, that each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned.

Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.